

IN THE SUPREME COURT OF THE STATE OF WASHINGTON

In re

Fiona A. Crinks Kennedy,
Lawyer (Bar No. 32385).

Supreme Court No. 200,682-5

SUPPLEMENTAL DECLARA-
TION OF DISCIPLINARY
COUNSEL

I, Marsha Matsumoto, declare and state:

1. I am the disciplinary counsel assigned to the disciplinary proceedings against respondent lawyer, Fiona A. Crinks Kennedy (Respondent).

2. On March 6, 2009, the Washington State Bar Association (Association) filed a Petition for Interim Suspension [ELC 7.2(a)(3)] and a Disciplinary Counsel Declaration in the above-referenced matter. The Petition was based on Respondent's failure to cooperate in three grievance investigations.

3. After the Petition was filed and served on Respondent, Respondent failed to cooperate in yet a fourth grievance investigation. The facts surrounding Respondent's failure to cooperate are set forth below.

4. The Association submits this Supplemental Declaration of Disciplinary Counsel in support of the Association's Petition for Interim Suspension.

CLERK

RONALD R. CARPENTER

2009 JUN -5 AM 7:56

RECEIVED
SUPREME COURT
STATE OF WASHINGTON

Grievance Filed by Paul Willard, WSBA File No. 09-00034

5. On January 9, 2009, lawyer Paul Willard (Willard) filed a grievance against Respondent. Willard represents Respondent's former client Claudia Andrade (Andrade).

6. On January 16, 2009, the Association sent Respondent a letter and a copy of Willard's grievance requesting Respondent's written response within two weeks. Attached as Exhibit A are true and correct copies of the Association's January 16, 2009 letter and Willard's grievance.

7. Respondent did not respond to Willard's grievance. Therefore, on February 23, 2009, the Association sent Respondent a letter (10-day letter) requiring Respondent's written response within 10 days or the Association would subpoena Respondent for a non-cooperation deposition. Attached as Exhibit B are true and correct copies of the Association's February 23, 2009 letter and the certified mail receipt.

8. Respondent did not respond to the Association's 10-day letter. Therefore, on April 3, 2009, the Association issued a Subpoena for Deposition and for the Production of Documents scheduling Respondent's deposition for April 28, 2009. Attached as Exhibit C are true and correct copies of the Association April 3, 2009 letter to Respondent and Subpoena for Deposition and for the Production of Documents.

9. The Association attempted to personally serve Respondent with the subpoena, but Respondent could not be located in Washington. Therefore, on April 14, 2009, pursuant to ELC 4.1(b)(3)(B)(ii), the Association served Respondent with the subpoena by certified mail at her business address in Kirkland, Washington, and her home address in Rathdrum, Idaho. On April 17, 2009, Respondent signed the certified mail receipt for the subpoena mailed to her home address. Attached as Exhibit D are true and correct copies of the Association's April 14, 2009 letter and certified mail receipt.

10. The day before Respondent's April 28, 2009 deposition, Respondent sent a fax to the Association stating that she would not be able to attend the deposition because she was recovering from hand surgery. Respondent stated that she would be available for a deposition the week of May 4, 2009. Attached as Exhibit E are true and correct copies of Respondent's April 27, 2009 fax to the Association.

11. On April 28, 2009, the Association sent Respondent a letter rescheduling her deposition for 9:00 a.m. on May 7, 2009. Attached as Exhibit F is a true and correct copy of the Association's April 28, 2009 letter.

12. On May 6, 2009, disciplinary counsel telephoned Respondent to remind her of the deposition. Respondent indicated that she would attend the deposition and would bring records responsive to the subpoena.

13. Respondent did not appear for her deposition on May 7, 2009. The Association left a voice mail message on Respondent's cell phone number and spoke with Respondent's mother, who shares office space with Respondent in Kirkland. Respondent's mother indicated that Respondent was in the Puget Sound area, but was not at the Kirkland office. The Association held the court reporter until 9:30 a.m., but Respondent did not return the Association's calls or appear for her deposition. Attached as Exhibit G is a true and correct copy of the transcript from Respondent's May 5, 2009 deposition.

14. On or about May 8, 2009, the Association received a fax from Respondent consisting of documents that appeared to be related to Respondent's representation of Andrade. Respondent did not, however, provide any further response to Willard's grievance or contact the Association to reschedule her deposition. Attached as Exhibit H is a true and correct copy of Respondent's fax cover sheet.

15. On May 29, 2009, Respondent left a voice mail for Disciplinary Counsel requesting confirmation that her fax had been received and claiming that she had left a voice mail late at night on May 6, 2009 stating

that she would not be appearing for her May 7th deposition because she took pain medication and was not in a position to drive.

16. On June 1, 2009, Disciplinary Counsel left a voice mail for Respondent, and sent Respondent a letter. Attached as Exhibit I is a true and correct copy of the Association's June 1, 2009 letter to Respondent.

17. On June 3, 2009, Respondent telephoned disciplinary counsel and agreed to appear for her deposition at the Association's office on June 9, 2009 at 9:30 a.m.

I certify under penalty of perjury under the laws of the State of Washington that the foregoing is true and correct.

6/4/2009 Seattle, WA
Date & Place

Marsha Matsumoto
Marsha Matsumoto, Bar No. 15831
Senior Disciplinary Counsel

EXHIBIT A



WSBA

OFFICE OF DISCIPLINARY COUNSEL

Acknowledgment That We Have Received a Grievance

Date: 1/16/2009 WSBA File: 09-00034

To the Grievant:

We received your grievance against a lawyer and opened a file with the file number indicated above. We are requesting a written response from the lawyer. You generally have a right to receive a copy of any response submitted by the lawyer. After we review the lawyer's response, if it appears that the conduct you describe is not within our jurisdiction, does not violate the Supreme Court's Rules of Professional Conduct (RPC), or does not warrant further investigation, we will write you a letter to tell you that. If we begin an investigation of your grievance, we will give you our investigator's name and telephone number. If, as a result of an investigation and formal proceeding, the lawyer is found to have violated the RPC, either the Washington State Bar Association Disciplinary Board or the Supreme Court may sanction the lawyer.

Our authority and resources are limited. We are not a substitute for protecting your legal rights. We do not and cannot represent you in legal proceedings. You should consider contacting another lawyer to represent you in any ongoing civil or criminal case or to determine whether other remedies may be available to you. If you believe criminal laws have been broken, you should contact your local police department or prosecuting attorney. There are time deadlines for both civil and criminal proceedings, so you should not wait to take other action.

Please read the enclosed form for additional information about the grievance process. Our office handles a large number of files. We urge you to communicate with us only in writing until we complete our initial review of your grievance. You should hear from us again within four weeks.

Request for Lawyer Response

To the Lawyer:

Although we have reached no conclusions on the merits of the grievance that has been filed against you, we are requesting your preliminary written response postmarked or delivered to us within **two (2) weeks** of the date of this letter. Please provide any information you believe is relevant. You must personally assure that all records, files, and accounts related to the grievance are retained until you receive written authorization from us, or until this matter is concluded and all possible appeal periods have expired.

Absent special circumstances, and unless you provide us with reasons to do otherwise, we will forward a copy of your response to the grievant. If the grievant is not your client, or you are providing personal information, please clearly identify any information that you believe we should withhold and we will forward a copy of your redacted response to the grievant, informing the grievant that he or she is receiving a redacted copy. Decisions to withhold information may be considered by a review committee of the Disciplinary Board. The grievance process is governed by the Rules for Enforcement of Lawyer Conduct (ELC). ELC 5.3(e), a copy of which is enclosed with related rules, sets out the obligations of a respondent lawyer, including the duty to promptly file a written response. If you believe further action should be deferred because of pending litigation, please so indicate and explain the basis for your request under ELC 5.3(c)

Sincerely,

Felice P. Congalton
Senior Disciplinary Counsel

Enclosure; Lawyer Discipline in Washington

Original: Grievant: Paul H. Willard
cc: Lawyer: Fiona A.C. Kennedy
(with enclosure, ELC form, and copy of grievance)

RECEIVED

GRIEVANCE AGAINST A LAWYER

JAN 09 2009
WSBA OFFICE OF
DISCIPLINARY COUNSEL



Return your completed form to:

Office of Disciplinary Counsel
Washington State Bar Association
1325 Fourth Avenue, Suite 600
Seattle, WA 98101-2539

GENERAL INSTRUCTIONS

- Read our information sheet *Lawyer Discipline in Washington* before you complete this form, particularly the section about waiving confidentiality.
- Type or write legibly but do not use the back of any page.
- Do not fax your form to us or send your form to us via the Internet.
- If you have a disability or need assistance with filing a grievance, call us at (206) 727-8207. We will take reasonable steps to accommodate you.

INFORMATION ABOUT YOU

Willard, Paul
Last Name, First Name
PO Box 12375
Address
Everett WA 98206
City, State, and Zip Code
425-252-6500 /
Telephone Number (Day/Evening)

INFORMATION ABOUT THE LAWYER

Kennedy, Fiona Allison Crinks
Last Name, First Name
10829 NE 68th St Ste C
Address
Kirkland WA 98033-4006
City, State, and Zip Code
425-889-8670
Telephone Number

Alternate address/phone where we can reach you

INFORMATION ABOUT YOUR GRIEVANCE

Describe **your** relationship to the lawyer who is the subject of your grievance by checking the box that best describes you:

Client
Former Client
Opposing Party

Opposing Counsel
Judicial
X Other: Substituting Counsel

Is there a court case related to your grievance? _____ YES _____ X _____ NO

If yes, what is the case name and file number, and who is the lawyer representing you?

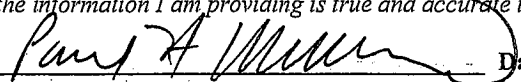
Explain your grievance in **your own words**. Give all important dates, times, places, and court file numbers. Attach additional pages, if necessary. Attach **copies (not your originals)** of any relevant documents.

In October 2008, I was hired to represent Claudia Andrade in
a connection with a motor vehicle accident. I contacted the
third party insurance company to commence negoatiation, and
learned that a non-attorney claiming to work for Fiona Kennedy
sent a letter to the insurance company claiming the represent
my client two months prior. I faxed and mailed a request to
Fiona Kennedy to notify the insurance company that she no longer
represented my client in this accident on November 17, 2008.
I have received no acknowledgement or response from Fiona to
date. Phone calls have also been fruitless. The insurance company
is unwilling to discuss the case with me without Fiona's withdrawal.
Fiona has either abandoned her practice, failed to supervise
the non-attorneys working for her, or the non-attorney is acting
as a attorney on her own without any attorney supervision.

AFFIRMATION

I affirm that the information I am providing is true and accurate to the best of my knowledge.

Signature:



Date: January 7, 2009

PAUL H. WILLARD
ATTORNEY AT LAW
P O BOX 12375
EVERETT, WA 98206-2375
(425) 252-6500 FAX (206) 350-6468

VIA FACSIMILE (425) 827-9456 and US Mail

November 17, 2008

Fiona Allison Crinks Kennedy
10829 NE 68th St Ste C
Kirkland, WA 98033-4006

FILE COPY

RE: Claudia Andrade, DOI 4/14/08

Ms. Kennedy:

I have been retained to represent Claudia Andrade in connection with an auto accident that occurred on or about 4/14/08. She desires to end her attorney-client relationship with you. Please do not make additional efforts to contact her and direct all further contact regarding this case to my office.

Please cease all work on her behalf and promptly forward her file to my attention at the address above. Thank you for your prompt attention to this matter.

Sincerely,

15/

Paul H. Willard

cc: client

PROGRESSIVE

Claims Office
200 - 112th Avenue NE, Suite 300
Bellevue, WA 98004
Facsimile: (425) 201-7384

Underwritten by: **Progressive Northwestern
Insurance Company**
Claim Number: 082313713
Date of Loss: April 14, 2008
Today's Date: December 4, 2008

Paul H. Willard, Attorney at Law
PO Box 12375
Everett, WA 98206

Our Insured: Roselyn S Strong
Your Client: Claudia Andrade

Dear Mr. Willard:

I am in receipt of your letter of representation for Claudia Andrade. I still do not have confirmation that Fiona Kennedy is no longer representing this client and I am unable to negotiate this claim until this is resolved. Once you provide signed confirmation from Ms. Kennedy, I would be happy to provide a copy of your client's medical records and bills in order to commence negotiations.

I look forward to working with you.

Sincerely,

Sarah Ennis

Sarah M. Ennis
Claims Representative
(425) 201-7333 or (800) 284-6787 ext. 1-7333
E-mail: sennis1@progressive.com

SME:vtn

EXHIBIT B



WSBA

OFFICE OF DISCIPLINARY COUNSEL

Felice P. Congalton
Senior Disciplinary Counsel

February 23, 2009

Fiona A.C. Kennedy
Attorney at Law
10829 NE 68th St Ste C
Kirkland, WA 98033-4006

Re: WSBA File: 09-00034
Grievance filed by Paul H. Willard

Dear Ms. Kennedy:

We asked you to provide a written response to the above referenced grievance. To the best of our knowledge, your response, which is required by Rule 5.3(e) of the Rules for Enforcement of Lawyer Conduct (ELC), has not been received.

Under ELC 5.3(e), you must file a written response to the allegations of this grievance within ten days after service of this letter, i.e., on or before **March 9, 2009**. If we do not receive your response within the ten-day period, we will subpoena you for a deposition. If we must serve a subpoena, you will be liable for the costs of the deposition, including service of process, and attorney fees of \$500. ELC 5.3(f)(2). You should be aware that failing to respond is, in itself, grounds for discipline and may subject you to interim suspension under ELC 7.2(a)(3).

Sincerely,

Felice P. Congalton
Senior Disciplinary Counsel

cc: Paul H. Willard

CERTIFICATE OF SERVICE

I CERTIFY THAT I CAUSED THE FOREGOING LETTER TO BE MAILED TO THE LAWYER NAMED ABOVE AT 10829 NE 68TH ST STE C, KIRKLAND, WA 98033-4006, CERTIFIED (RETURN RECEIPT NO. 7008 0500 0002 0255 9586) MAIL, POSTAGE PREPAID, ON FEBRUARY 23, 2009.

FELICE P. CONGALTON
SENIOR DISCIPLINARY COUNSEL

U.S. Postal Service™
CERTIFIED MAIL™ RECEIPT
(Domestic Mail Only; No Insurance Coverage Provided)

For delivery information visit our website at www.usps.com

OFFICIAL USE

Postage	\$
Certified Fee	
Return Receipt Fee (Endorsement Required)	
Restricted Delivery Fee (Endorsement Required)	
Total Postage & Fees	\$

Postmark
Here

2/23

Sent To	FIONA A.C. KENNEDY
Street, Apt. No., or PO Box No.	10829 NE 68th St Ste C
City, State, ZIP+4	KIRKLAND WA 98033-4006

PS Form 3800, August 2005 See Reverse for Instructions

9856 5520 2000 0050 8002

SENDER: COMPLETE THIS SECTION

- Complete items 1, 2, and 3. Also complete item 4 if Restricted Delivery is desired.
- Print your name and address on the reverse so that we can return the card to you.
- Attach this card to the back of the mailpiece, or on the front if space permits.

1. Article Addressed to:

FIONA A.C. KENNEDY
10829 NE 68th St Ste C
KIRKLAND, WA 98033-4006

COMPLETE THIS SECTION ON DELIVERY

A. Signature

Fiona A.C. Kennedy

B. Received by (Printed Name) *Fiona A.C. Kennedy*

C. Date of Delivery *2/23/06*

D. Is delivery address different from item 1? ☒ Yes ☐ No
If YES, enter delivery address below:

3. Service Type

- ☒ Certified Mail
- ☐ Registered
- ☐ Insured Mail
- ☐ Express Mail
- ☒ Return Receipt
- ☐ C.O.D.

4. Restricted Delivery? (Extra Fee)

☐ Yes

2. Article Number: 7008 0500 0002 0255 9586
(Transfer from service label)

PS Form 3811, February 2004

Domestic Return Receipt

102595-02-M-1540

EXHIBIT C



WSBA

OFFICE OF DISCIPLINARY COUNSEL

Marsha Matsumoto
Senior Disciplinary Counsel

direct line: (206) 727-8233
fax: (206) 727-8325

April 3, 2009

HAND DELIVERED WITH SUBPOENA DUCES TECUM

Fiona A. Crinks Kennedy
Attorney at Law
10829 NE 68th St Ste C
Kirkland, WA 98033-4006

Re: Grievance of Paul H. Willard against lawyer Fiona A. Crinks Kennedy
WSBA File No. 09-00034

Dear Ms. Kennedy:

Enclosed is a subpoena duces tecum compelling your attendance at a deposition in accordance with Rules 5.5 and 5.3(f) of the Rules for Enforcement of Lawyer Conduct (ELC). The subpoena has been issued because of your failure or refusal to cooperate with this investigation. As you already have been informed, you will be liable for the costs associated with the deposition, including service of the subpoena, court reporter charges, and a \$500 attorney fee.

We wish to avoid any further delay in the completion of this investigation. Accordingly, we will not cancel or continue the deposition unless disciplinary counsel so confirms in writing. Absent a written confirmation of cancellation or continuance, your appearance at the deposition in our offices on April 28, 2009 at 9:30 a.m. is mandatory. If you fail to appear, we may treat your failure to appear as a violation of disciplinary rules, we may refer this grievance to Review Committee with a recommendation of a public disciplinary hearing without your response, and we may petition the Washington Supreme Court for your immediate interim suspension from the practice of law under ELC 7.2(a)(3).

Sincerely,

A handwritten signature in cursive script that reads "Marsha Matsumoto".

Marsha Matsumoto
Senior Disciplinary Counsel

Enclosure

1
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5
6 BEFORE THE
7 DISCIPLINARY BOARD
8 OF THE
9 WASHINGTON STATE BAR ASSOCIATION

10 In re

11 Fiona A. Crinks Kennedy,
12 Lawyer (Bar No. 32385).

WSBA File No. 09-00034

SUBPOENA FOR DEPOSITION AND FOR
THE PRODUCTION OF DOCUMENTS

13 THE STATE OF WASHINGTON TO: Fiona A. Crinks Kennedy

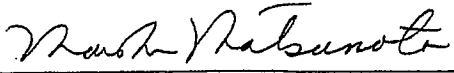
14 YOU ARE HEREBY COMMANDED under Rules 5.5 and 5.3(f) of the Rules for
15 Enforcement of Lawyer Conduct (ELC) to be and appear at the Washington State Bar
16 Association offices, 1325 4th Avenue, Suite 600, Seattle, WA 98101, on April 28, 2009 at 9:30
17 a.m., to testify in investigatory proceedings being conducted by the Washington State Bar
18 Association. The testimony will be recorded by a certified court reporter.

19 YOU ARE FURTHER COMMANDED to bring the following with you at the above
20 time:

21 1. Your complete file and whatever documents may be in your possession or control
22 relating to your representation of Claudia Andrade, and all financial records, including trust
23 account and client ledgers, canceled checks, and bank statements relating to funds received in
24

1 connection with your representation of Ms. Andrade.

2 Dated this 3rd day of April, 2009.

3 
4 Marsha Matsumoto, Bar No. 15831
5 Senior Disciplinary Counsel

6 CR 45 Sections (c) and (d):

7 (c) **Protection of Persons Subject to Subpoenas.**

- 8 (1) A party or an attorney responsible for the issuance and service of a subpoena shall take reasonable steps to avoid imposing undue
9 burden or expense on a person subject to that subpoena. The court shall enforce this duty and impose upon that party or attorney
10 in breach of his duty an appropriate sanction, which may include, but is not limited to, lost earnings and a reasonable attorney's
11 fee.
- 12 (2)(A) A person commanded to produce and permit inspection and copying of designated books, papers, documents or tangible things,
13 or inspection of premises need not appear in person at the place of production or inspection unless commanded to appear for
14 deposition, hearing or trial.
- 15 (B) Subject to paragraph (d)(2) of this rule, a person commanded to produce and permit inspection and copying may, within 14 days
16 after service of subpoena or before the time specified for compliance if such time is less than 14 days; after service, serve upon
17 the party or attorney designated in the subpoena written objection to inspection or copying of any or all of the designated
18 materials or of the premises. If objection is made, the party serving the premises except pursuant to an order of the court by
19 which the subpoena shall not be entitled to inspect and copy the materials or inspect the premises except pursuant to an order of
20 the court by which the subpoena was issued. If objection has been made, the party serving the subpoena may, upon notice to the
21 person commanded to produce and all other parties, move at any time for an order to compel the production. Such an order to
22 compel production shall protect any person who is not a party or an officer of a party from significant expense resulting from the
23 inspection and copying commanded.
- 24 (3)(A) On timely motion, the court by which a subpoena was issued shall quash or modify the subpoena if it;
(i) fails to allow reasonable time for compliance;
(ii) fails to comply with RCW 5.56.010 or subsection (e)(2) of this rule;
(iii) requires disclosure of privileged or other protected matter and no exception or waiver applies; or
(iv) subjects a person to undue burden, provided that, the court may condition denial of the motion upon a requirement that the
subpoenaing party advance the reasonable cost of producing the books, papers, documents, or tangible things.
- (B) If a subpoena
(i) requires disclosure of a trade secret or other confidential research, development, or commercial information, or
(ii) requires disclosure of an unretained expert's opinion or information not describing specific events or occurrences in dispute and
resulting from the expert's study made not at the request of any party, the court may, to protect a person subject to or affected by the
subpoena, quash or modify the subpoena or, if the party in whose behalf the subpoena is issued shows a substantial need for the
testimony or material that cannot be otherwise met without undue hardship and assures that the person to whom the subpoena is
addressed will be reasonably compensated, the court may order appearance or production only upon specified conditions.

17 (d) **Duties in Responding to Subpoena.**

- 18 (1) A person responding to a subpoena to produce documents shall produce them as they are kept in the usual course of business or
19 shall organize and label them to correspond with the categories in the demand.
- 20 (2) When information subject to a subpoena is withheld on a claim that it is privileged or subject to protection as trial preparation
21 materials, the claim shall be made expressly and shall be support by a description of the nature of the documents,
22 communications, or things not produced that is sufficient to enable the demanding party to contest the claim.

EXHIBIT D



WSBA

OFFICE OF DISCIPLINARY COUNSEL

Marsha Matsumoto
Senior Disciplinary Counsel

direct line: (206) 727-8233
fax: (206) 727-8325

April 14, 2009

Via Certified Mail Return Receipt No. 7008 0500 0002 0255 4871

Fiona A.C. Kennedy
Attorney at Law
10829 NE 68th St Ste C
Kirkland, WA 98033-4006

Via Certified Mail Return Receipt No. 7008 0500 0002 0255 3225

✓ Fiona A.C. Kennedy
Attorney at Law
8079 W 2nd St
Rathdrum, ID 83858-6473

Re: Grievance of Paul H. Willard against lawyer Fiona A.C. Kennedy
WSBA File No. 09-00034

Dear Ms. Kennedy:

Enclosed is a subpoena for deposition and for production of documents compelling your attendance at a deposition in accordance with Rules 5.5 and 5.3(f) of the Rules for Enforcement of Lawyer Conduct (ELC). The subpoena has been issued because of your failure or refusal to cooperate with this investigation. As you already have been informed, you will be liable for the costs associated with the deposition, including service of the subpoena, court reporter charges, and a \$500 attorney fee.

We wish to avoid any further delay in the completion of this investigation. Accordingly, we will not cancel or continue the deposition unless disciplinary counsel so confirms in writing. Absent a written confirmation of cancellation or continuance, your appearance at the deposition in our offices on April 28, 2009 at 9:30 a.m. is mandatory. If you fail to appear, we may treat your failure to appear as a violation of disciplinary rules, we may refer this grievance to Review Committee with a recommendation of a public disciplinary hearing without your response, and we may petition the Washington Supreme Court for your immediate interim suspension from the

Fiona A.C. Kennedy

April 14, 2009

Page 2

practice of law under ELC 7.2(a)(3).

Sincerely,

Marsha Matsumoto

Marsha Matsumoto

Senior Disciplinary Counsel

Enclosure

SENDER: COMPLETE THIS SECTION		COMPLETE THIS SECTION ON DELIVERY	
<ul style="list-style-type: none">■ Complete items 1, 2, and 3. Also complete item 4 if Restricted Delivery is desired.■ Print your name and address on the reverse so that we can return the card to you.■ Attach this card to the back of the mailpiece, or on the front if space permits.		<p>A. Signature <i>[Signature]</i></p> <p>B. Received by (Printed Name) <i>Fiona Kennedy</i></p> <p>C. Date of Delivery <i>APR 14 2009</i></p> <p>D. Is delivery address different from item 1? If YES, enter delivery address below.</p>	
1. Article Addressed to: <i>FIONA A.C. KENNEDY ATTORNEY AT LAW 8079 W 2nd ST RATHDRUM, ID 83858-6473</i>		3. Service Type <input checked="" type="checkbox"/> Certified Mail <input type="checkbox"/> Express Mail <input type="checkbox"/> Registered <input checked="" type="checkbox"/> Return Receipt for Merchandise <input type="checkbox"/> Insured Mail <input type="checkbox"/> C.O.D.	
2. Article Number (Transfer from service label) <i>17008 0500 0002 0255 3225</i>		4. Restricted Delivery? (Extra Fee) <input type="checkbox"/> Yes	

PS Form 3811, February 2004 Domestic Return Receipt 102595-02-M-1540

7008 0500 0002 0255 3225

U.S. Postal Service TM	
CERTIFIED MAIL TM RECEIPT	
(Domestic Mail Only; No Insurance Coverage Provided)	
For delivery information visit our website at www.usps.com	
OFFICIAL USE	
Postage \$	09-00034
Certified Fee	
Return Receipt Fee (Endorsement Required)	
Restricted Delivery Fee (Endorsement Required)	
Total Postage & Fees \$	
Postmark Here <i>4-14-09</i>	
Sent To <i>Fiona A.C. Kennedy</i>	
Street, Apt. No., or PO Box No. <i>8079 W 2nd ST.</i>	
City, State, ZIP+4 [®] <i>Rathdrum, ID 83858-6473</i>	
PS Form 3800, August 2006 See Reverse for Instructions	

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6 BEFORE THE
7 DISCIPLINARY BOARD
8 OF THE
9 WASHINGTON STATE BAR ASSOCIATION

10 In re

11 Fiona A. Crinks Kennedy,
12 Lawyer (Bar No. 32385).

WSBA File No. 09-00034

SUBPOENA FOR DEPOSITION AND FOR
THE PRODUCTION OF DOCUMENTS

13 THE STATE OF WASHINGTON TO: Fiona A. Crinks Kennedy

14 YOU ARE HEREBY COMMANDED under Rules 5.5 and 5.3(f) of the Rules for
15 Enforcement of Lawyer Conduct (ELC) to be and appear at the Washington State Bar
16 Association offices, 1325 4th Avenue, Suite 600, Seattle, WA 98101, on April 28, 2009 at 9:30
17 a.m., to testify in investigatory proceedings being conducted by the Washington State Bar
18 Association. The testimony will be recorded by a certified court reporter.

19 YOU ARE FURTHER COMMANDED to bring the following with you at the above
20 time:

21 1. Your complete file and whatever documents may be in your possession or control
22 relating to your representation of Claudia Andrade, and all financial records, including trust
23 account and client ledgers, canceled checks, and bank statements relating to funds received in
24

1 connection with your representation of Ms. Andrade.

2 Dated this 3rd day of April, 2009.

3 

4 Marsha Matsumoto, Bar No. 15831
5 Senior Disciplinary Counsel

6 CR 45 Sections (c) and (d):

7 (c) **Protection of Persons Subject to Subpoenas.**

- 8 (1) A party or an attorney responsible for the issuance and service of a subpoena shall take reasonable steps to avoid imposing undue
9 burden or expense on a person subject to that subpoena. The court shall enforce this duty and impose upon that party or attorney
10 in breach of his duty an appropriate sanction, which may include, but is not limited to, lost earnings and a reasonable attorney's
11 fee.
- 12 (2)(A) A person commanded to produce and permit inspection and copying of designated books, papers, documents or tangible things,
13 or inspection of premises need not appear in person at the place of production or inspection unless commanded to appear for
14 deposition, hearing or trial.
- 15 (B) Subject to paragraph (d)(2) of this rule, a person commanded to produce and permit inspection and copying may, within 14 days
16 after service of subpoena or before the time specified for compliance if such time is less than 14 days; after service, serve upon
17 the party or attorney designated in the subpoena written objection to inspection or copying of any or all of the designated
18 materials or of the premises. If objection is made, the party serving the premises except pursuant to an order of the court by
19 which the subpoena shall not be entitled to inspect and copy the materials or inspect the premises except pursuant to an order of
20 the court by which the subpoena was issued. If objection has been made, the party serving the subpoena may, upon notice to the
21 person commanded to produce and all other parties, move at any time for an order to compel the production. Such an order to
22 compel production shall protect any person who is not a party or an officer of a party from significant expense resulting from the
23 inspection and copying commanded.
- 24 (3)(A) On timely motion, the court by which a subpoena was issued shall quash or modify the subpoena if it;
(i) fails to allow reasonable time for compliance;
(ii) fails to comply with RCW 5.56.010 or subsection (e)(2) of this rule;
(iii) requires disclosure of privileged or other protected matter and no exception or waiver applies; or
(iv) subjects a person to undue burden, provided that, the court may condition denial of the motion upon a requirement that the
subpoenaing party advance the reasonable cost of producing the books, papers, documents, or tangible things.
- (B) If a subpoena
(i) requires disclosure of a trade secret or other confidential research, development, or commercial information, or
(ii) requires disclosure of an unretained expert's opinion or information not describing specific events or occurrences in dispute and
resulting from the expert's study made not at the request of any party, the court may, to protect a person subject to or affected by the
subpoena, quash or modify the subpoena or, if the party in whose behalf the subpoena is issued shows a substantial need for the
testimony or material that cannot be otherwise met without undue hardship and assures that the person to whom the subpoena is
addressed will be reasonably compensated, the court may order appearance or production only upon specified conditions.

17 (d) **Duties in Responding to Subpoena.**

- 18 (1) A person responding to a subpoena to produce documents shall produce them as they are kept in the usual course of business or
19 shall organize and label them to correspond with the categories in the demand.
- 20 (2) When information subject to a subpoena is withheld on a claim that it is privileged or subject to protection as trial preparation
21 materials, the claim shall be made expressly and shall be supported by a description of the nature of the documents,
22 communications, or things not produced that is sufficient to enable the demanding party to contest the claim.

EXHIBIT E

THE LAW OFFICE OF FIONA KENNEDY, LLC

Fiona A.C. Kennedy

Attorney and Mother

10829 NE 68TH STREET, SUITE C, KIRKLAND, WA 98033
CELLULAR (509) 951-1280 FAX (425) 827-9456

RECEIVED

APR 27 2009
WSBA OFFICE OF
DISCIPLINARY COUNSEL

FACSIMILE TRANSMITTAL SHEET

TO:	FROM:
Marsha Matsumoto	Fiona Kennedy
COMPANY:	DATE:
WSBA Office of Disciplinary Counsel	4/27/2009
FAX NUMBER:	TOTAL NO. OF PAGES INCLUDING COVER:
206/727-8325	
PHONE NUMBER:	CASE REFERENCE
206/727-8207	WSBA file number 09-00034
RE:	DOCKET NUMBER
Grievance filed by Paul H. Willard	

☒ URGENT ☒ FOR REVIEW ☐ PLEASE COMMENT ☐ PLEASE REPLY ☒ FOR YOUR RECORDS

NOTES/COMMENTS:

I apologize for not responding to your request for information sooner, but I am now not able to appear in person for the deposition currently scheduled for tomorrow at 9:30 am. I am, however, available by telephone. Late in the afternoon last Friday, April 24, 2009, I consulted with a hand surgeon to repair my lacerated tendons. It was immediately determined that surgery was necessary and scheduled for today, Monday April 27, 2009, at 1:00 p.m.

I will be sedated and unable to travel to Seattle tonight. I will also be given medications to control my post-op pain. If the information I am providing to you today in response to the grievance filed by attorney Paul H. Willard is not sufficient, I will be available tomorrow by telephone to answer your questions or have my deposition taken. As I am not in my office today, additional information will come to you today via facsimile from Eva Watson in my Kirkland office. She can be reached at (425) 889-8670.

I will be in the Seattle area for a deposition and hearing on May 4th and 5th, 2009, and would be available to meet at the WSBA office for my deposition on Wednesday or Thursday of that week, April 6th or 7th. Again, I apologize that I am not able to appear in person tomorrow, but I am more than happy to answer any questions that are not answered with the information I am submitting to you today.

Thank you, Fiona A. C. Kennedy

The law is only good when it is tempered with 10% of mercy and grace

JOHN QUINCY ADAMS, FOUNDING FATHER

THE LAW OFFICE OF FIONA KENNEDY, LLC

Fiona A.C. Kennedy

Attorney and Mother

1119 E. SHERMAN AVE, COEUR D'ALENE, ID 83814
CELLULAR (509) 951-1280 FAX (425) 827-9456

April 27, 2009

Via facsimile (206) 727-8325

Marsha Matsumoto, Senior Disciplinary Counsel
Washington State Bar Association
1325 Fourth Avenue, Suite 600
Seattle, WA 980101

RE: WSBA File: 09-00034
Grievance filed by Paul H. Willard

Dear Disciplinary Counsel,

I am in receipt of Mr. Willard's complaint and the requested information. It is my understanding that the original grievant, Paul H. Willard, has withdrawn his complaint against me, but I am providing you the following as my response to your request for information from me.

An affidavit will be forthcoming today via facsimile from Eva Watson. Ms. Watson answers my business line (425) 889-8670, which ring into my Kirkland location. I have received and responded to the request from Progressive letting them know that my office did not have a lien in this matter, and I believe Mr. Willard has sent the bar association a letter withdrawing the complaint since all of his requests have been fulfilled.

My file on this client, Claudia Andrade, merely consisted of her medical records and our representation agreement (I was handling this case at no cost to the client, as a professional courtesy). There are not any documents relating to my trust account, client ledgers, canceled checks, or bank statements in connection with Ms. Andrade's case, as this claim did not come to a conclusion during my period of representation.

Thank you for your understanding of my medical restrictions for travel as explained on my fax cover page, and please contact either myself or Ms. Watson if you need anything else from me.

Respectfully,


Fiona A.C. Kennedy

The law is only good when it is tempered with 10% of mercy and grace

John Quincy Adams, Founding Father

EXHIBIT F



WSBA

OFFICE OF DISCIPLINARY COUNSEL

Marsha Matsumoto
Senior Disciplinary Counsel

direct line: (206) 727-8233
fax: (206) 727-8325

April 28, 2009

Via Facsimile to (425) 827-9456 and First Class Mail

Fiona A. Crinks Kennedy
Attorney at Law
10829 NE 68th St Ste C
Kirkland, WA 98033-4006

Re: Grievance of Paul H. Willard against Fiona A. Crinks Kennedy
WSBA File No. 09-00034

Dear Ms. Kennedy:

Our office received your April 27, 2009 facsimile stating that you will not be appearing for your deposition this morning because you underwent hand surgery yesterday afternoon. Based on your facsimile, we will reschedule your deposition for **May 7, 2009 at 9:00 a.m.** at the offices of the Washington State Bar Association.

The Subpoena for Deposition and for the Production of Documents required you to produce the following records at your April 28, 2009 deposition:

Your complete file and whatever documents may be in your possession or control relating to your representation of Claudia Andrade, and all financial records, including trust account and client ledgers, canceled checks, and bank statements relating to funds received in connection with your representation of Ms. Andrade.

You have not produced any records, although you indicate that, at a minimum, you have a representation agreement with Ms. Andrade and medical records. You are required to produce these records as well as any other records relating to your representation of Claudia Andrade. These records include, but are not limited to, correspondence, e-mails, memos, logs, notes, time records, and/or invoices, whether maintained in hard copy or electronic form. We urge you to provide these records by the close of business on May 5, 2009 so that we have an opportunity to copy and review them prior to your deposition. This should facilitate a more efficient use of time at your deposition.

Finally, we are not aware of Mr. Willard having withdrawn his grievance. However, even when a grievant withdraws a grievance, the Association may continue its investigation under ELC 5.3(d).

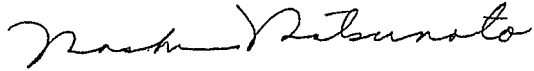
Fiona A. Crinks Kennedy

April 28, 2009

Page 2 of 2

Please confirm in writing that you will appear on **May 7, 2009 at 9:00 a.m.** for your deposition in this matter. If you have any questions, please contact me at 206-727-8233.

Sincerely,

A handwritten signature in cursive script, appearing to read "Marsha Matsumoto".

Marsha Matsumoto

Senior Disciplinary Counsel

EXHIBIT G

BEFORE THE DISCIPLINARY BOARD OF THE
WASHINGTON STATE BAR ASSOCIATION

In Re

FIONA A. CRINKS KENNEDY,

Lawyer (Bar No. 32385).

)

)

)

Date: 5/7/09

)

)

WSBA File

)

No. 09-00034

)

TRANSCRIPT OF PROCEEDINGS

Taken at 1325 Fourth Avenue, Suite 600;
Seattle, Washington

REPORTED BY: Zel D. Gonce (CCR No. 2458)

TREECE, SHIRLEY & BRODIE

1415 N. 200th Street, Suite B-7

Shoreline, WA 98133-3220 PH: (206) 624-6604

Page 2

APPEARANCES

For the Bar Association: MARSHA MATSUMOTO, ESQ.
 Washington State Bar
 Association
 1325 Fourth Avenue
 Suite 600
 Seattle, WA 98101-2539

EXHIBIT INDEX

EXHIBIT NO.	DESCRIPTION	PAGE
No. 1	Letter dated 4/14/09; attached documents	3
No. 4	Fax and Letter from Ms. Kennedy	4
No. 5	Letter dated 4/28/09	4

Page 3

SEATTLE, WASHINGTON; THURSDAY, MAY 5, 2009
 9:30 A.M.
 -- 00 0 00 --

(Exhibits Nos. 1-5 are marked
 for identification.)

MS. MATSUMOTO: We're on the record on
 May 7, 2009. It is about 9:30 in the morning. This was
 to be the deposition of Fiona Kennedy, Bar Number 32385,
 WSBA File Number 09-00034, a grievance filed by Paul
 Willard.

The deposition was scheduled to begin at 9:00
 o'clock this morning. For the record, I will identify
 some exhibits. Exhibit Number 1 is an April 14th, 2009
 letter from the Bar Association to Ms. Kennedy and
 attached is a Subpoena for Deposition and Subpoena for
 Production of Documents issued on April 3rd, 2009. The
 subpoena was served on Ms. Kennedy by certified mail at
 her home address in Rathdrum, Idaho and also at her
 office address in Kirkland, Washington. The Association
 served Ms. Kennedy by certified mail because the
 Association was unsuccessful in personally serving
 Ms. Kennedy in the state of Washington.

The subpoena in Exhibit 1 set Ms. Kennedy's
 deposition originally for April 28, 2009 at 9:30.

Page 4

However, on April 27, 2009, Ms. Kennedy sent a fax and a
 letter to the Association stating that she could not
 attend her deposition on April 28 because she underwent
 hand surgery on April 27th and was taking medication.

Exhibit Number 4 is a copy of the fax and
 letter from Ms. Kennedy. Based on Ms. Kennedy's letter,
 which indicated that she would be available this week,
 the week of May 4th on Wednesday or Thursday, the
 Association rescheduled Ms. Kennedy's deposition to
 today, May 7.

Exhibit Number 5 is an April 28th, 2009
 letter from the Association to Ms. Kennedy confirming
 that her deposition was rescheduled for May 7th, 2009 at
 9:00 o'clock and asking Ms. Kennedy to confirm in writing
 that she would appear for her deposition this morning.

Ms. Kennedy did not confirm in writing that
 she would appear for her deposition this morning.
 Therefore, I telephoned her office in Kirkland and her
 cell phone yesterday morning to confirm whether or not
 she would be attending today. I received a telephone
 call from Ms. Kennedy yesterday, May 6th, at 4:47 p.m.
 and she stated that she would be attending her deposition
 this morning at 9:00 o'clock and would be bringing
 records with her.

When Ms. Kennedy did not appear this morning

Page 5

I telephoned her cell phone number at 9:20 and left a
 message on her voice mail. Her cell phone number is area
 code (509) 951-1280. Also at 9:20 this morning I
 telephoned her Kirkland office. The office number is
 area code (425) 889-8670 and spoke with Adeline Crinks
 who is also Ms. Kennedy's mother. Ms. Crinks indicated
 that Ms. Kennedy was not at the office but that she would
 try to make a couple calls to reach her.

I checked my voice mail and have not received
 any messages from Ms. Kennedy or any word as to her
 whereabouts or why she hasn't appeared for her
 deposition. So with that, we'll go ahead and close the
 record based on Ms. Kennedy's failure to appear.

(Off the record.)

MS. MATSUMOTO: We're back on the record
 at 10:00 o'clock. We waited an additional half hour to
 see whether or not Ms. Kennedy would appear or contact
 us. She has not appeared and has not left any messages
 or contacted the Bar Association regarding her deposition
 this morning. I tried again to call Ms. Kennedy's office
 at (425) 889-8670 and spoke again with her mother Adeline
 Crinks to see if she had any success in reaching her.
 Ms. Crinks indicates that she was not able to reach her
 but that she knows her daughter Fiona Kennedy is in the
 Puget Sound area this morning and indeed was here

Page 6

1 yesterday, which was contrary to the discussion I had
2 with Ms. Kennedy yesterday evening on the phone when she
3 indicated that she was not in the Puget Sound area and in
4 fact she was going to be driving over from Eastern
5 Washington or Idaho for the deposition.

6 So Ms. Kennedy, having not appeared, we will
7 close the record, and I will give the exhibits that I
8 identified earlier to the court reporter for preparation
9 of the transcript.

10 (The proceeding was
11 concluded at 10:00 a.m.)
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Page 7

1 CERTIFICATE
2 STATE OF WASHINGTON)
3 COUNTY OF KING)
4
5
6

7 I, the undersigned Notary Public in and for the
8 State of Washington, do hereby certify:

9 That the foregoing proceedings held on the date
10 indicated on the caption sheet were reported
11 stenographically by me and thereafter reduced to
12 typewriting under my direction;

13 I further certify that the transcription of the
14 hearing is true and correct to the best of my ability.

15 Signed this 19th day of May, 2009.
16
17
18
19

20 _____
21 Notary Public in and for the
22 State of Washington at Bremerton.
23 My commission expires 3-19-13
24 CCR No. 2458
25

EXHIBIT H

THE LAW OFFICE OF FIONA KENNEDY, LLC

Fiona A.C. Kennedy

Attorney and Mother

10829 NE 68TH STREET, SUITE C, KIRKLAND, WA 98033

CELLULAR (509) 951-1280 FAX (425) 827-9456

FACSIMILE TRANSMITTAL SHEET

TO:	Marsha Matsumoto	FROM:	Fiona Kennedy
COMPANY:	WSBA Office of Disciplinary Counsel	DATE:	5/7/2009
FAX NUMBER:	206/727-8325	TOTAL NO. OF PAGES INCLUDING COVER:	28
PHONE NUMBER:	206/727-8207	CASE REFERENCE	WSBA file number 09-00034
RE:	Grievance filed by Paul H. Willard	DOCKET NUMBER	

☒ URGENT ☒ FOR REVIEW ☐ PLEASE COMMENT ☐ PLEASE REPLY ☒ FOR YOUR RECORDS

NOTES/COMMENTS:

RECEIVED

MAY 08 2009

WSBA OFFICE OF
DISCIPLINARY COUNSEL

Area Code 208

= Idaho

The law is only good when it is tempered with

10

13R

EXHIBIT I



WSBA

OFFICE OF DISCIPLINARY COUNSEL

Marsha Matsumoto
Senior Disciplinary Counsel

direct line: (206) 727-8233
fax: (206) 727-8325

June 1, 2009

Via Facsimile (425) 827-9456 and First Class Mail

Fiona A. Crinks Kennedy
Attorney at Law
10829 NE 68th St Ste C
Kirkland, WA 98033-4006

Re: Grievance of Paul H. Willard against Fiona A. Crinks Kennedy
WSBA File No. 09-00034

Dear Ms. Kennedy:

I received your May 29, 2009 voice mail regarding the above-referenced grievance. I left a voice mail for you earlier today, but am also responding to your message by letter.

You were subpoenaed to appear for a non-cooperation deposition in the above-referenced matter. The deposition was originally scheduled for April 28, 2009, but was postponed to May 7, 2009 at your request. You did not appear for your deposition on May 7th. When you did not appear, I telephoned your cell phone number and your Kirkland office, but you did not return my calls. Moreover, I did not receive any messages from you, dated May 6th or otherwise, stating that you would not be attending your deposition because you had taken pain medication and were not in a position to drive.

On May 8, 2009, our office received your 28-page fax, apparently consisting of documents from Ms. Andrade's client file. Your fax did not include documents, such as medical records or a representation agreement, that you previously claimed to have in your file. Nor did your fax include a cover letter or address your failure to appear for your deposition. In fact, I received no further communication from you until your May 29th voice mail.

The subpoena that was served upon you required you to produce records and to testify in investigatory proceedings being conducted by the Association. Your 28-page fax does not constitute compliance with the subpoena, or cooperation with the investigation. As we previously informed you, your appearance at your deposition was mandatory absent written confirmation from our office that the deposition was cancelled or continued.

Please contact me by close of business on **June 3, 2009** to discuss the requirements for bringing your conduct into compliance with the ELC. The Association's office hours are 8:00 a.m. to

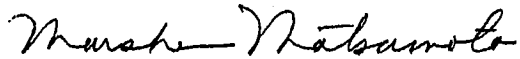
Fiona A. Crinks Kennedy

June 1, 2009

Page 2 of 2

5:00 p.m. I am generally in the office Monday through Thursday, and my direct number is listed above. If I am not available when you call, please have me paged.

Sincerely,

A handwritten signature in cursive script that reads "Marsha Matsumoto".

Marsha Matsumoto

Senior Disciplinary Counsel